

REMARKS

The Patent and Trademark Office Action dated December 20, 2005, has been carefully considered. The claims remaining for review are claims 2 - 10, 12 and 16 - 18.

Applicant has addressed the Examiner's rejection under 35 U.S.C. §112 by eliminating the terms "standard" and "typically." Claims 3 and 4 differ in that the "parking holder" and "shuttle holder" are different components. Claim 8 has been rewritten to positively recite the "tube fill unit."

With regard to the Examiner's rejection of claim 2 - 18 under 35 U.S.C. §103(a), Applicant has extensively amended the claims to more particularly define the distinguishing features.

The Examiner has rejected claims 2 - 10 under 35 U.S.C. §103(a) as unpatentable over Yamakawa, et al. (Yamakawa) in view of Stevens. There is no suggestion in Yamakawa or Stevens that the structure of Stevens can be combined with Yamakawa. Even if a combination were suggested, Stevens discloses a cross beam with fixed support members 169, 170. While it is suggested that this substantially eliminates "distortion," it does not suffer the tracking problems of a movable unit. Applicant has added clarifying terminology to base claim 2.

Although Yamakawa shows a specimen container rack 7, the rack is on a conveyer and is delivered from an adjacent apparatus. This is similar to Applicant's shuttle. However, rack 9 is a draw for manual placement and it is unclear from Figs. 10 and 11 to what item 9 refers. Applicant relies on the distinguishing features of claim 2 in combination with claims 3 and 4 for patentability.

The bar code reader of Yamakawa operates in conjunction with a conveyer

and tube rotator and is distinguishable from Applicant's identification station as defined in the amended claims.

The Examiner has rejected claims 2 - 4, 8 and 10, under 35 U.S.C. §103(a) as unpatentable over Boje, et al. (Boje) in view of Stevens. Again, it is difficult to determine where the suggested substitution of components is made. In Boje, the operation of the robotic arm 34 is unclear and there is no indication of what the resulting structure would look like or how it would operate. While the apparatus of Boje includes a bar code reader 78 for the storage trays 52, there is no reader for the tubes.

The addition of Hardgrave, et al. (Hardgrave) is not in context. There is no suggestion that the arts are related or that knowledge of the Hardgrave system would suggest the use of RFID tags in the marking of test tubes.

Applicant acknowledges that Covert, et al. (Covert) discloses a tube gripper device similar in operation to Applicant's, as broadly claimed. Repeated flexing of the fingers in the Covert system, however, may cause fatigue. With Applicant's cancellation of claim 11, Applicant relies on the combination of the pick head claims with parent claim 2 for patentability.

Applicant respectfully requests that the claims as amended be reviewed with a view to allowance.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard Esty Peterson", written over a horizontal line.

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